

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

JOHN CHRISTIAN SMITH

§

§

v.

§

Civil Action No. 3:18-cv-02709

§

JPMORGAN CHASE BANK, N.A. and  
ROUND GROVE PROPERTIES, LLC

§

§

§

**NOTICE OF REMOVAL**

JPMorgan Chase Bank, N.A. (**Chase**) removes the action John Christian Smith filed in the 134th District Court of Dallas County, Texas to the United States District Court for the Northern District of Texas under 28 U.S.C. §§ 1331 and 1441.

**I. STATEMENT OF THE CASE**

Mr. Smith contends Chase violated the Real Estate Settlement Procedures Act, 12 U.S.C. § 2601, *et seq.* (**RESPA**) when it failed to respond adequately to his loss mitigation application and instead posted the property for a foreclosure sale. He asserts state law claims against Chase on the same loss mitigation allegations as well as allegations Chase did not send him a notice of default before posting the property for sale. This court has federal question jurisdiction over Mr. Smith's RESPA claim and supplemental jurisdiction over his state law claims.

**II. FEDERAL QUESTION JURISDICTION**

This court has federal question jurisdiction under 28 U.S.C. § 1331 because Mr. Smith asserts violations of federal law. Under the "well-pleaded complaint rule," federal courts have jurisdiction "when a federal question is presented on the face of the plaintiff's properly pleaded complaint." *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987). Mr. Smith presents a federal question by its claim Chase violated 12 C.F.R. § 1024.41 when it posted the property for a foreclosure sale before responding to his loss mitigation application. (Ex. 1, pet., at 10-11 ¶¶ 46-

51.) This court has supplemental jurisdiction over Mr. Smith's remaining state law claims because "form part of the same case or controversy." 28 U.S.C. § 1337(a).

### **III. THE PROCEDURAL REQUIREMENTS HAVE BEEN SATISFIED**

Removal is timely under 28 U.S.C. § 1446(b) because Mr. Smith filed suit on October 2, 2018, and there is no indication he served Chase as of the removal date. (*See Ex. 6, docket.*) Because Mr. Smith has not served Round Grove Properties, LLC, Chase does not need its consent to remove. 28 U.S.C. § 1446(b)(2)(A) (requiring consent of all "properly joined and served" defendants.) (*See id.*)

Chase sends notice to the state court of its removal. Pursuant to 28 USC § 1446(a), Chase attaches a true and correct copy of all of the process, pleadings, and orders on file in the state court action as **Exhibits 1-5**.

### **IV. CONCLUSION**

This court may exercise federal question jurisdiction because Mr. Smith asserts claims arising under federal law.

Date: October 12, 2018

Respectfully submitted,

/s/ C. Charles Townsend

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**ATTORNEYS FOR DEFENDANT  
JPMORGAN CHASE BANK, N.A.**

**CERTIFICATE OF SERVICE**

I hereby certify on October 12, 2018 a true and correct copy of the foregoing instrument was served as follows:

**VIA CM/ECF**  
**AND CERTIFIED MAIL/RRR**  
**No. 9414 7266 9904 2124 3156 52**

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*/s/ C. Charles Townsend*  
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